IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 880 OF 2006

Shri Vishnu Dagdoba Misal .. Petitioner
(Org.Deft.No.2)

Vs.

Smt. Rukmini Suresh Uttekar
and ors. .. Respondents

Mr. S.J. Rairkar for petitioner.
Mr. S.N. Chandrachud for respondent nos.1 and 2.
Mr. Sachin Cchavan for respondent no.3.

CORAM: B.H. MARLAPALLE, J.

Date : July 19, 2006.

P.C.:

1. The petitioner is original defendant no.2 in RCS No.284 of 2003 which came to be decreed by the learned Judge of the Additional Small Causes Court at Pune on 14/12/2004. By the said order the defendants have been directed to hand over vacant possession of the suit premises to the plaintiffs within a period of two months, failing which the plaintiffs would be entitled to possession of the suit premises through the process of court. This decree was challenged in Civil Appeal No.82 of 2005 and the learned 7th Ad-hoc Additional District Judge at Pune was pleased to

dismiss the same and hence this petition.

2. The proceedings before both the courts below were instituted under the Maharashtra Rent Control Act, 1999. Section 34(3) of the said Act states that no further appeal shall lie against any decision in appeal filed under Sub-section (1). Undoubtedly, the order impugned and passed by the Lower Appellate Authority is in an appeal under Section 34(1) of the said Act.

3. Hence, in view of the reasons recorded by me yesterday i.e. 18/7/2006 in my order passed in Writ Petition No.3334 of 2006, this petition cannot be entertained in view of an alternate remedy available to the petitioner-defendant no.2 by filing a Civil Revision Application under Section 115 of the Civil Procedure Code.

4. Hence the petition is disposed as withdrawn with liberty to file a Civil Revision Application and if such an application is filed within a period of two weeks from today, the period of pendency of this

petition shall be excluded for counting limitations. The order of status quo granted on 15/2/2006 by this court shall continue to operate for a period of two weeks. It is also made clear that if the Civil Revision Application is not taken up before the appropriate bench within a period of two weeks from today, the status quo order will stand vacated.

(B.H. Marlapalle,J.)